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OFFICE OF PETITIONS

In re Application of	:	
Sutardja, Sehat	:	
Application No. 10/691,237	:	ON PETITION
Filed: October 23, 2003	:	
Attorney Docket No. MP0320	:	

This is a decision on the petition filed August 11, 2004, requesting that the above-identified application be accorded a filing date of October 22, 2003, rather than the presently accorded date of October 23, 2003. The petition is properly treated as a petition under 37 CFR 1.10(d).

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.10." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

37 CFR 1.10(d) states,

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
- (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
- (3) The petition includes a showing which establishes that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

As to (3), petitioner has failed to include any evidence from the USPS that the correspondence was deposited in the "Express Mail Post Office to Addressee" service on October 22, 2003. Petitioner stated "a Pick Up Service Statement ... from the USPS notes item no. 10, which corresponds to the Express Mail No. EL741090883US, was picked up on October 22, 2003." A copy of the statement should be submitted to the Office with any request for reconsideration on the instant petition.

A petition under 37 CFR 1.10 does not require a petition fee and none has been charged.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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By hand: Customer Window located at:

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 Arlington, VA 22202

By fax: (703) 872-9306
 ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed Paralegal Liana Chase at (571) 272-3282.



Charles Steven Brantley
Petitions Attorney
Office of Petitions